

Resolution Authorizing the Friends of the Garden to Adopt the Maluhia Garden on Diamondhead Drive East at the Intersection with Alawai Avenue

Whereas, the City of Diamondhead received the park area known as the Maluhia Garden from the Diamondhead Property Owners' Association on January 7, 2013; and

Whereas, the Mayor and Council of the City of Diamondhead have established the concept and procedures for private citizens or groups to adopt city property as outlined in Ordinance 2012-28, Adoption of Right-of-Way, adopted on December 3, 2012; and

Whereas, the Diamondhead Community Garden Fund has funded the construction and maintenance, and provided volunteers to accomplish all construction and upkeep; and

Whereas, the Friends of the Garden have indicated a desire to adopt the Maluhia Garden as described in the attached Adoption Agreement which Agreement the Mayor and Council here by approve; and

Whereas, the Mayor and Council of the City of Diamondhead find that the adoption by the Friends of the Garden of the Maluhia Garden on Diamondhead Drive East at Alawai Avenue is consistent with the Deed of Dedication of January 7, 2013, that it is in the best interest of the City of Diamondhead that the Friends of the Garden adopt the Maluhia Garden as described in the attached adoption agreement; and, that it is for the public convenience and necessity of the City of Diamondhead that the Friends of the Garden adopt the Maluhia Garden.

Now Therefore, BE IT RESOLVED, that the Mayor and Council approve the form of the attached Maluhia Garden adoption agreement. BE IT FURTHER RESOLVED that the Mayor and Council approve the adoption of the Maluhia Garden by the Friends of the Garden; and BE IT FURTHER RESOLVED that the Mayor of the City of Diamondhead be and he is hereby authorized to execute the attached adoption agreement; and, a copy of the executed agreement will be spread upon the Minutes.

Approved by the Mayor and Council of the City of Diamondhead, Hancock County, Mississippi on this the ____ day of _____, 2015.

	Aye	Nay	Absent
Councilmember Lopez	_____	_____	_____
Councilmember LaFontaine	_____	_____	_____
Councilmember Sislow	_____	_____	_____
Councilmember Rech	_____	_____	_____
Councilmember Knobloch	_____	_____	_____
Mayor Schafer	_____	_____	_____

Mayor Thomas E. Schafer, IV

Kristin Ventura, City Clerk

Attachment To Resolution 2013-048.1

Adopt Maluhia Garden Agreement

This Agreement is made and entered into by and between The City of Diamondhead, Mississippi ("City") and the Friends of the Garden, effective as of the date of latest execution shown below, and shall remain in effect until canceled by one of the parties as provided below.

WHEREAS, the Friends of the Garden desire to make certain improvements to the aesthetic beauty of The City of Diamondhead, specifically to the Maluhia Garden and

WHEREAS, Friends of the Garden agrees to assume all responsibility for the safety of its employees and volunteers working in the Maluhia Garden, and further agrees to save the City harmless on any and all claims arising from work performed under this Agreement; and

WHEREAS, the City is authorized to enter into such agreements by authority granted by the Mayor and City Council of the City of Diamondhead and is desirous of so doing.

NOW THEREFORE, for and in consideration of the stated premises and for the mutual covenants and agreements of the parties as herein contained, it is agreed as follows:

THE CITY SHALL:

1. Grant unto the Friends of the Garden a non-exclusive right of ingress and egress upon the Maluhia Garden.
2. Retain the specific right to enter upon the Maluhia Garden to maintain and perform work commensurate with good grounds maintenance practices.
3. Retain all maintenance rights, duties, and responsibilities within the Maluhia Garden, including the road shoulders, drainage and storm drains.
4. Retain all rights and responsibilities for control of access, outdoor advertising, and other uses of the Maluhia Garden other than those specifically granted to the Friends of the Garden.
5. Retain responsibility to provide and fund water and power to the Maluhia Garden.
6. Be responsible for grass cutting, edging and sod maintenance in accordance with grounds maintenance standards for the City of Diamondhead.

7. Be responsible for the maintenance and repair and/or reconstruction of the Diamondhead POA constructed bridge from Diamondhead Drive East leading to the western walking path.
8. Remove all organic and inorganic matter collected during the maintenance and police of the Maluhia Garden. Such material will be bagged where possible and/or piled adjacent to Alawai Avenue.

THE FRIENDS OF THE GARDEN SHALL:

1. Provide all funds necessary for the initial planting and continual maintenance of shrubs and other types of flora in the Maluhia Garden.
2. Provide equipment and labor necessary for trimming of all bushes, trees, and shrubs. Said services will be provided in a manner and at such times so as not to create a hazardous condition or restrictions to the public. When necessary, the Friends of the Garden will request tree or bush trimming support from the city. All organic or inorganic matter resulting from maintenance or police of the Maluhia Garden will be bagged where possible and/or neatly piled along Alawai Avenue.
3. Purchase any and all fertilizer, seed, additional labor, or equipment necessary for proper maintenance within the limits specified.
4. Assume total responsibility for the safety and liability of its operations within the limits described, and shall hold the City harmless on any and all claims arising from work performed. All members of the Friends of the Garden shall sign waivers of liability and insure that all volunteers working on behalf of the Friends of the Garden shall also sign waivers of liability. Friends shall provide the City with all signed waivers. Failure to sign said waiver shall prohibit that individual from volunteering in the Maluhia Garden.
5. Submit to the City's designated agent for approval any plans to significantly change the general character or overall appearance of the landscaping in the Maluhia Garden. Such approval shall not be required in relation to the planting of flowers, shrubs, bushes, trees, etc. where such planting does not significantly change the general character or overall appearance of the landscaping in the Maluhia Garden.
6. Install and maintain irrigation and electrical systems from a point beginning at the water and electrical meters.
7. Construct and maintain all necessary planting areas, structures, bridges, fences, maintenance facilities, walking paths, seating areas, signs and meeting areas.

IT IS FURTHER MUTUALLY AGREED AS FOLLOWS:

1. That no right or responsibility other than those specifically listed herein above are granted or implied, and that all rights not specifically conveyed herein are retained by the City.
2. That the City reserves the right to make the necessary improvements or modifications within the designated limits of this Agreement at any time it deems necessary to upgrade this facility to meet maintenance demands, without payment or other compensation for removal or destruction of the shrubbery or other improvements made by the Friends of the Garden under this agreement.
3. That the City executes its orders and directives through the Ordinances of The City of Diamondhead. All notices and correspondence with the City shall be directed to the designated agent shown below. Similarly, the Friends of the Garden executes all of its orders and directives through the Board of Friends of the Garden. All notices and correspondence with the Friends of the Garden shall be directed to the agent shown below. All notices and correspondence shall be considered delivered upon receipt at the locations or telephone numbers listed below. All modifications to this Agreement must be submitted in writing through the designated agents and signed by the parties before they can take effect. Oral agreements cannot serve to modify this agreement.

The designated agents for the parties

CITY:
Mayor Thomas E. Schafer, IV
City of Diamondhead
5000 Diamondhead Circle
Diamondhead, MS 39525
Telephone: (228) 222-4626

FRIENDS OF THE GARDEN:
Susan Holcomb, Registered Agent
Friends of the Garden
8429 Makiki Drive
Diamondhead, MS 39525
Telephone: (228) 255-8690

4. That this Agreement may be canceled by either party upon notification to the other party thirty (30) days prior to the date of cancellation, except when in the opinion of the City an unsafe condition exists, in which situation, this Agreement may be terminated without prior notice.

Authorized by the Mayor and City Council of the City of Diamondhead, Mississippi, on the _____ day of _____, 2015, Minute Book _____, Page _____ and executed this _____ day of _____, 2015.

Mayor Thomas E. Shafer, IV

Authorized by the Board of Friends of the Garden, Diamondhead, Mississippi, on the _____ day of _____, 2015, executed this _____ day of _____, 2015.

Registered Agent

ATTEST:

Kristin Ventura, City Clerk
The City of Diamondhead, Mississippi

RESOLUTION

Res 2015-009

RESOLUTION APPOINTING
MISSISSIPPI MUNICIPAL LEAGUE
2015 VOTING DELEGATES
FOR THE CITY/TOWN OF Diamondhead

WHEREAS, the Mississippi Municipal League amended the bylaws of the association to provide for a ballot election, to be conducted by the officers of the Mississippi Municipal Clerks and Collectors Association, to be held each year at the summer convention, to elect a second vice president and to vote on any proposed bylaw changes; and

WHEREAS, the amended bylaws require the governing authority board (Alderman, City Council, City Commission) to designate in its minutes the voting delegate and two alternates to cast the vote for each member municipality.

NOW, THEREFORE, BE IT RESOLVED BY THE (Governing Authority Board) OF THE CITY/TOWN OF Diamondhead

In accordance with the bylaws of the Mississippi Municipal League, the voting delegate(s) for the 2015 Mississippi Municipal League election to be held at the annual convention on June 22-June 24, 2015 are as follows:

Voting Delegate: (Name and title) MAYOR Thomas Schaefer
First Alternate: (Name and title) Councilmember AT-LARGE ERNIE Knobloch
Second Alternate: (Name and title)

That public interest and necessity requiring same, this Resolution shall become effective upon passage.

The above and foregoing Resolution, after having been first reduced to writing, was introduced by _____, seconded by _____, and was adopted by the following vote, to-wit:

YEAS: NAYS:

The President thereby declared the motion carried and the Resolution adopted, this the (day, month, and year).

(S E A L)

ATTEST: ADOPTED:

CLERK OF COUNCIL

PRESIDENT

The above and foregoing Resolution having been submitted to and approved by the Mayor, this the (day, month and year).

ATTEST: APPROVED:

CITY CLERK

MAYOR

CITY OF DIAMONDHEAD, MISSISSIPPI RESOLUTION OF AUTHORIZATION

The Mayor and City Council (the "Governing Body") acting for and on behalf of the City of Diamondhead, Mississippi, (the "Municipality") took up for consideration the matter of authorizing and approving a grant on behalf of the City of Diamondhead from the Mississippi Development Authority (the "MDA") for the purpose of Street Improvements related to the construction of a roundabout on Aloha Drive in the downtown shopping district of Diamondhead and thus enhancing economic development through the creation of jobs.

Thereupon Councilmember _____ offered and moved the adoption of the following resolution:

RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF DIAMONDHEAD, MISSISSIPPI, TO AUTHORIZE AND APPROVE THE MAYOR AND/OR CITY MANAGER, ON BEHALF OF THE CITY, ENTERING INTO A GRANT AGREEMENT WITH THE MISSISSIPPI DEVELOPMENT AUTHORITY IN ORDER TO RECEIVE A GRANT ON BEHALF OF THE CITY FROM THE MISSISSIPPI DEVELOPMENT AUTHORITY IN AN AMOUNT NOT TO EXCEED ONE HUNDRED FIFTY THOUSAND DOLLARS (\$ 150,000.00) FOR THE PURPOSE OF STREET IMPROVEMENTS RELATED TO THE CONSTRUCTION OF A ROUNDABOUT ON ALOHA DRIVE IN THE DOWNTOWN SHOPPING DISTRICT AND THUS ENHANCING ECONOMIC DEVELOPMENT THROUGH THE CREATION OF JOBS.

WHEREAS, the Advantage Mississippi Initiative Senate Bill 2002, 2nd Extraordinary Session 2000 created a special fund in the State Treasury called the "Small Municipalities and Limited Population Counties Fund." The Mississippi Development Authority ("MDA") has established a grant program for grants to small municipalities and limited population counties or natural gas districts created by law and contained therein to assist in completing projects, and

WHEREAS, pursuant to Section 57-1-18 of the MS Code of 1972 (the "Act") the Small Municipalities and Limited Population Counties Program, MDA is authorized to make a grant to the City for the purpose of street improvements related to the construction of a roundabout on Aloha Drive in the downtown shopping district of the City and thus enhancing economic development through the creation of jobs; and ultimately enhancing the quality of life in order to attract additional industry and

WHEREAS, pursuant to the Act and the guidelines adopted by MDA, the Municipality has filed an application with MDA for a grant to make street improvements related to the roundabout on Aloha Drive in the downtown shopping district of the City; and

WHEREAS, based on the application, the Act and the guidelines, MDA has agreed to provide a grant to the City of Diamondhead for the purposes set forth; and

WHEREAS, before the grant can be processed, a Grant Agreement must be entered into by the City of Diamondhead and MDA, setting out the terms and conditions of the grant.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DIAMONDHEAD, MISSISSIPPI, AS FOLLOWS:

Section 1. That all of the findings of fact made and set forth in the preamble to this resolution shall be and the same are hereby found, declared, and adjudicated to be true and correct.

Section 2. That the Mayor and City Council of the City of Diamondhead, Mississippi, is now fully authorized and empowered under the provisions of Sections 57-1-18, of the Mississippi Code of 1972, to proceed with the execution of the Grant Agreement with the Department.

Section 3. That the Mayor and/or City Manager and Clerk of the Board are hereby authorized and directed to execute any and all documents and certificates as may be necessary in order to consummate the transaction contemplated by the resolution and upon execution, each of the documents and certificates shall be legal, valid, and binding obligations of the Municipality enforceable in accordance to the terms of each.

Councilmember _____ seconded the motion to adopt the foregoing Resolution and after the same had been read and considered section by section and put to a roll call vote, the results was as follows:

Councilmember Lopez	voted _____
Councilmember LaFontaine	voted _____
Councilmember Sislow	voted _____
Councilmember Rech	voted _____
Councilmember Knobloch	voted _____
Mayor Schafer	voted _____

The motion having received the foregoing vote of the Governing Body, the Mayor declared the motion carried and the Resolution adopted, on this the 2nd day of June, 2015.

CITY OF DIAMONDHEAD, MISSISSIPPI

Kristin Ventura, City Clerk

Mayor Thomas E. Shafer, IV

(SEAL)

GRANT RESOLUTION

MATCH RESOLUTION SMALL MUNICIPALITIES AND LIMITED POPULATION COUNTIES GRANT FOR A ROUNDABOUT ON ALOHA DRIVE

WHEREAS, the Mayor and Board of Aldermen for the City of Diamondhead, Mississippi, is preparing a Mississippi Small Municipalities and Limited Population Counties Grant Program Application to turn in to the Mississippi Development Authority for a 80% grant not to exceed \$150,000.00 for construction of a Roundabout on Aloha Drive.

WHEREAS, if the City is awarded the Small Municipalities and Limited Population Counties Grant by the Mississippi Development Authority in an amount not to exceed \$150,000.00 the City of Diamondhead agrees to provide matching funds of twenty percent (20%) which is approximately \$30,000.00 which will consist of cash and/or in-kind services or a combination of both towards the construction of the roundabout on Aloha Drive and other amenities; and

NOW THEREFORE BE IT RESOLVED that the Mayor and the Board of Aldermen of the City of Diamondhead, Mississippi:

SECTION 1. The City of Diamondhead shall provide the matching funds of twenty percent (20%) if awarded a Small Municipalities and Limited Population Counties Grant for a roundabout on Aloha Drive; and

SECTION 2. The Board of Aldermen authorize the Mayor and/or City Manager to sign any and all documents pertinent to this grant application and the City is obligated to match twenty percent (20%) funds whether it be cash, in-kind services or a combination of both to meet the twenty percent (20%) match requirement for this grant application.

Councilmember _____ moved, seconded by Councilmember _____ to adopt the foregoing Resolution and after the same had been read and considered section by section and put to a roll call vote, the results was as follows:

Councilmember Lopez	voted _____
Councilmember LaFontaine	voted _____
Councilmember Sislow	voted _____
Councilmember Rech	voted _____
Councilmember Knobloch	voted _____
Mayor Shafer	voted _____

RESOLVED, this the _____ day of _____, 2015.

ATTEST:

Mayor Thomas E. Shafer, IV

Kristin Ventura, City Clerk

(seal)